

REMARKS

The Office Action dated April 13, 2011 has been reviewed and carefully considered. Claim 21 has been amended herein in response to the 35 U.S.C. 112, second paragraph rejection discussed below. Claims 1, 4-17, and 19-21 remain present in the application, with claims 15, 17 and 21 being the only independent claims. Reconsideration of the above-identified application, in view of the following remarks, is respectfully requested.

Applicants note with appreciation the indication that Claims 5-9 would be allowable if rewritten so as not to depend from a rejected claim, and with no change in scope. These claims have not been so rewritten because, for the reasons given below, their base claim is believed to be allowable.

Claim 21 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the claim language “selecting the dimmed brightness level in dependence on ... a number of occurrences ... above the dimmed brightness level” is deemed an “inappropriate recursive format” in Paragraph 3 of the Office Action. In essence, the examiner is saying you cannot count the number of occurrences unless the dimmed brightness level is known.

Applicants had previously argued that this method of setting a threshold is well-known -- that one may, for example, set various “temporary” thresholds, perform the

resulting counts, and then set a “permanent” threshold at the threshold value which yields a count that is optimum based on some criteria. In particular, the application specifically addresses use of minimizing an error function (e.g., claims 19 and 20). Use of such error functions are well-known in the art as being just one example of determining a threshold value by analyzing results obtained by varying (temporary) threshold values. In such an analysis, the (determined) threshold is not “known” while the analysis is being performed.

In the interests of furthering prosecution, Applicants have amended claim 21 to specifically recite that temporary dimmed brightness levels are used in selecting a dimmed brightness level. This current amendment parallels the amendments to claims 15 and 17 contained in Applicants’ February 2, 2011 amendment. As noted at that time, support for this feature is found, *inter alia*, in paragraphs [0039] and [0040] of the published application which state:

[0039] ... The dimmed brightness level $L_{b\dim}$ and the corresponding gray level x_1 may be determined dynamically for subsequent images (or per region of each of the subsequent images in case a multiple lamp backlight unit BL2 is applied). If an image contains both pixels with gray levels above x_1 and below x_{thres} , deterioration of the displayed image is inevitable and a compromise is necessary. In order to quantify the perceived deterioration of the displayed image, an error function is applied which corresponds to the amount of deterioration of the displayed image. **By selecting for each image a dimmed brightness level $L_{b\dim}$ which results in a minimum value of this error function, the deterioration is minimized** [emphasis added].

[0040]The error function includes a number of occurrences of gray levels x corresponding to a brightness level L above the dimmed brightness level L_{dim} and/or a number of occurrences of gray levels x corresponding to a brightness level L below a predetermined brightness level, which preferably corresponds to the minimum brightness level L_{dim}/CR . An embodiment of the error function $E_{\text{Tot}}(x_1)$ is given by the formula ...

... **$E_{\text{tot}}(x_1)$ is the error as a result of selecting the dimmed brightness level L_{dim} corresponding to a gray level x_1 .**

As referenced in the above quotation, a gray level x_1 varies in dependence on a variable L_{dim} . The resulting error function values are then used to select the dimmed brightness level, L_{dim} . Applicants submit that this description of the invention contained in the specification supports the amendments to claim 21, wherein “temporary” dimmed brightness levels are used in the selection of a dimmed brightness level.

Claims 1, 10, 11 and 14-17 stand rejected under 35 U.S.C. §103(a) as being anticipated by Park, U.S. Pat. Publ. No. 2002/0130830 (hereinafter, “Park”) in view of Leyvi et al., U.S. Pat. Publ. No. 2006/0071936 (hereinafter, “Leyvi”) and further in view of Applicant’s Admitted Prior Art (AAPA). Claims 4, 19 and 20 stand rejected under 35 USC §103(a) as being unpatentable over Park in view Leyvi in view of AAPA and further in view of Kim et al., U.S. Pat. Publ. No. 2003/0151565 (hereinafter, “Kim”). Claims 12 and 13 stand rejected under 35 USC 103(a) as being unpatentable over Park in view of Leyvi in view of AAPA and further in view of Usul et al., EP 0513551 (hereinafter “Usul”).

Applicants respectfully disagree with, and explicitly traverse, the Examiner's reason for rejecting the claims.

The above rejections of each of the claims rely on Leyvi as teaching various features of those claims. The present application has a March 26, 2004 priority date. Accordingly, Leyvi only qualifies as prior art under 35 U.S.C. §102(e). For the reasons stated below, Applicants submit that Leyvi is disqualified as a prior art reference:

The current application and Leyvi were, at the time the invention of the current application was made, owned by KONINLIJKE PHILIPS ELECTRONICS N.V.

Applicants submit that under 35 U.S.C. §103(c) and MPEP §706.02(l)(2), this statement alone is sufficient evidence to disqualify Leyvi from being used in the 35 U.S.C. §103(a) rejection contained in the present Office Action. Applicants further submit that the Office Action's reliance on the remaining references fails to adequately address the features of the claims contained in the present application.

Further, Applicants deny any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Dan Piotrowski
Registration No. 42,079

Date: June 13, 2011

/Thomas J. Onka/
By: Thomas J. Onka
Attorney for Applicants
Registration No. 42,053

Mail all correspondence to:

Dan Piotrowski, Registration No. 42,079

US PHILIPS CORPORATION

P.O. Box 3001

Briarcliff Manor, NY 10510-8001

Phone: (914) 333-9624

Fax: (914) 332-0615